



United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

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MAY 28 2003

May 8, 2003

COHEN & GRESSER LLP

Ira Lee Sorkin, Esq.
Carter Ledyard & Milburn LLP
2 Wall Street, 17th Floor
New York, New York 10005

Re: United States v. John Angelides, et al., 03 Cr. __ ()

Dear Mr. Sorkin:

On the understandings specified below, the Office of the United States Attorney for the Southern District of New York ("this Office") will accept a guilty plea from John Angelides ("the defendant") to Count One of the above-referenced Information. Count One charges the defendant with conspiracy to commit wire fraud, to submit false claims and to make false statements, in violation of Title 18, United States Code, Section 371. Count One carries a maximum sentence of 5 years' imprisonment, a maximum fine or the greater of \$250,000 or, pursuant to Title 18, United States Code, Section 3571, twice the gross pecuniary gain derived from the offense, or twice the gross pecuniary loss to persons other than the defendant resulting from the offense, a \$100 special assessment, and a maximum term of 3 years' supervised release. In addition to the foregoing, the Court must order restitution in accordance with Sections 3663, 3663A and 3664 of Title 18, United States Code.

In addition, as part of his plea, the defendant shall admit to the Forfeiture Allegation in the Information and shall agree to forfeit to the United States, pursuant to Title 18, United States Code, Section 982, a sum of money equal to \$290,000, representing the approximate amount of proceeds obtained as a result of the offense charged in Count One of the Information (the "Subject Property"). It is further understood that, in the event that the United States files a civil action pursuant to Title 18, United States Code, Section 981 seeking to forfeit the Subject Property, the defendant will not file a claim with the Court or otherwise contest such a civil forfeiture action and will not assist a third party in asserting any claim to the Subject Property. It

Ira Lee Sorkin
May 8, 2003

is further understood that the defendant will not file or assist anyone in filing a petition for remission or mitigation with the Department of Justice concerning the Subject Property.

In consideration of his plea to the above offenses, neither the defendant nor Connect 2 Internet Networks, Inc., will be further prosecuted criminally by this Office (except for criminal tax violations as to which this Office cannot, and does not, make any agreement) for participating, from in or about the Fall 1999 through in or about October 2002, in a scheme to defraud the Federal Government's E-Rate school and library funding program through the submission of false, fraudulent and misleading claims and statements, as charged in the Information. In addition, at the time of sentencing, the Government will move to dismiss any open Count(s) against the defendant. The defendant agrees that with respect to any and all dismissed charges he is not a "prevailing party" within the meaning of the "Hyde Amendment," Section 617, P.L. 105-119 (Nov. 26, 1997), and will not file any claim under that law.

In consideration of the foregoing and pursuant to Sentencing Guidelines Section 6B1.4, the parties hereby stipulate to the following:

A. Offense Level

1. The Sentencing Guidelines applicable are those in effect as of November 1, 2001.
2. The Guideline applicable to a violation of Title 18, United States Code § 371 is U.S.S.G. § 2X1.1.
3. Pursuant to U.S.S.G. § 2X1.1(a), the base offense level is the base offense level from the Guideline for the substantive offense, plus any adjustments from such Guideline for any intended offense conduct that can be established with reasonable certainty. Because the defendant completed all the acts he believed necessary for the successful completion of the substantive offense, the offense level is not decreased under U.S.S.G. § 2X1.1(b)(2).
4. The substantive offenses are wire fraud, false claims and false statements, in violation of Title 18, United States Code, Sections 1343, 287 and 1001, respectively. The Guideline for each of those offenses is U.S.S.G. § 2B1.1.
5. Pursuant to U.S.S.G. § 2B1.1, the base offense level is 6.
6. Because the loss amount exceeded \$200,000 but was not more than \$400,000, the offense level is increased 12 levels, pursuant to U.S.S.G. § 2B1.1(b)(1)(G).
7. Assuming the defendant clearly demonstrates acceptance of responsibility, to the satisfaction of the Government, through his allocution and subsequent conduct prior to the

Ira Lee Sorkin
May 8, 2003

imposition of sentence, a 2-level reduction will be warranted, pursuant to U.S.S.G. § 3E1.1(a). Furthermore, assuming the defendant has accepted responsibility as described in the previous sentence, an additional 1-level reduction is warranted, pursuant to U.S.S.G. § 3E1.1(b), because the defendant gave timely notice of his intention to enter a plea of guilty; thereby permitting the Government to avoid preparing for trial and permitting the Court to allocate its resources efficiently.

In accordance with the above, the applicable Guidelines offense level is 15.

B. Criminal History Category

Based upon the information now available to this Office (including representations by the defense), the defendant has no criminal history points, and accordingly, the defendant's Criminal History Category is I.

C. Sentencing Range

Based upon the calculations set forth above, the defendant's stipulated sentencing Guidelines range is 18 to 24 months (the "Stipulated Sentencing Range"). In addition, after determining the defendant's ability to pay, the Court may impose a fine pursuant to § 5E1.2. At Guidelines level 15, the applicable fine range is \$4,000 to \$40,000.

D. Other Agreements

The defendant reserves the right to move for a downward departure from the Stipulated Sentencing Range of 18 to 24 months on the basis of "aberrant behavior" pursuant to U.S.S.G. § 5K2.20. The Government reserves the right to oppose that motion. Other than as set forth above, neither party will seek any departure or seek any adjustment not set forth herein. Nor, other than as set forth above, will either party suggest that the Probation Department consider such a departure or adjustment, or suggest that the Court sua sponte consider such a departure or adjustment.

Except as provided in any written Proffer Agreement(s) that may have been entered into between this Office and the defendant, nothing in this agreement limits the right of the parties (i) to present to the Probation Department or the Court any facts relevant to sentencing; (ii) to make any arguments regarding where within the Stipulated Sentencing Range set forth above (or such other range as the Court may determine) the defendant should be sentenced; (iii) to seek an appropriately adjusted Sentencing range if it is determined based upon new information that the defendant's criminal history category is different from that set forth above. Nothing in this agreement limits the right of the Government to seek denial of the adjustment for acceptance of responsibility, see U.S.S.G. § 3E1.1, and/or imposition of an adjustment for obstruction of

Ira Lee Sorkin
May 8, 2003

justice, see U.S.S.G. § 3C1.1, regardless of any stipulation set forth above, should the defendant move to withdraw his guilty plea once it is entered, or should it be determined that the defendant has either (i) engaged in conduct, unknown to the Government at the time of the signing of this Agreement, that constitutes obstruction of justice or (ii) committed another crime after signing this agreement.

It is understood that pursuant to Sentencing Guidelines § 6B1.4(d), neither the Probation Department nor the Court is bound by the above Guidelines stipulation, either as to questions of fact or as to the determination of the proper Guidelines to apply to the facts. In the event that the Probation Department or the Court contemplates any Guidelines adjustments, departures, or calculations different from those stipulated to above, the parties reserve the right to answer any inquiries and to make all appropriate arguments concerning the same.

It is understood that the sentence to be imposed upon the defendant is determined solely by the Court. This Office cannot, and does not, make any promise or representation as to what sentence the defendant will receive. Moreover, it is understood that the defendant will have no right to withdraw his plea of guilty should the sentence imposed by the Court be outside the Stipulated Sentencing Range set forth above.

It is further agreed (i) that the defendant will not file a direct appeal, nor litigate under Title 28, United States Code, Section 2255 and/or Section 2241, any sentence within or below the Stipulated Sentencing Range (18 to 24 months) set forth above and (ii) that the Government will not appeal any sentence within or above the Stipulated Sentencing Range (18 to 24 months). This provision is binding on the parties even if the Court employs a Guidelines analysis different from that stipulated to herein. Furthermore, it is agreed that any appeal as to the defendant's sentence that is not foreclosed by this provision will be limited to that portion of the sentencing calculation that is inconsistent with (or not addressed by) the above stipulation.

The defendant hereby acknowledges that he has accepted this Agreement and decided to plead guilty because he is in fact guilty. By entering this plea of guilty, the defendant waives any and all right to withdraw his plea or to attack his conviction, either on direct appeal or collaterally, on the ground that the Government has failed to produce any discovery material, Jencks Act material, exculpatory material pursuant to Brady v. Maryland, 373 U.S. 83 (1963), other than information establishing the factual innocence of the defendant, and impeachment material pursuant to Giglio v. United States, 405 U.S. 150 (1972), that has not already been produced as of the date of the signing of this Agreement.

It is further agreed that should the convictions following defendant's pleas of guilty pursuant to this Agreement be vacated for any reason, then any prosecution that is not time-barred by the applicable statute of limitations on the date of the signing of this agreement (including any counts that the Government has agreed to dismiss at sentencing pursuant to this Agreement) may be

Ira Lee Sorkin

May 8, 2003

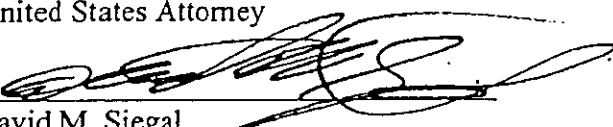
commenced or reinstated against defendant, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement or reinstatement of such prosecution. It is the intent of this Agreement to waive all defenses based on the statute of limitations with respect to any prosecution that is not time-barred on the date that this Agreement is signed.

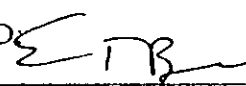
It is further understood that this Agreement does not bind any federal, state, or local prosecuting authority other than this Office.

Apart from any written Proffer Agreement(s) that may have been entered into between this Office and defendant, this Agreement supersedes any prior understandings, promises, or conditions between this Office and defendant. No additional understandings, promises, or conditions have been entered into other than those set forth in this Agreement, and none will be entered into unless in writing and signed by all parties.

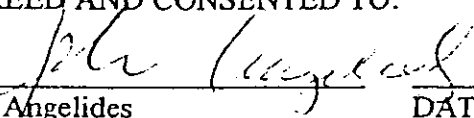
Very truly yours,

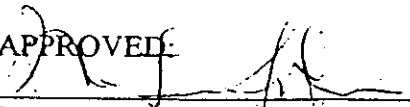
JAMES B. COMEY
United States Attorney

By: 
David M. Siegal
Assistant United States Attorney
(212) 637-2281

APPROVED: 
Evan T. Barr
Chief, Major Crimes Unit

AGREED AND CONSENTED TO:

 5/22/03
John Angelides DATE

APPROVED:  5.22.03
Ira Lee Sorkin, Esq. DATE
Attorney for John Angelides